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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/355,149	03/07/2000	ULF ASSMUS	2345/87	6071
26646	7590	12/14/2009	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			LEE, MICHAEL	
ART UNIT	PAPER NUMBER			
		2622		
MAIL DATE	DELIVERY MODE			
12/14/2009	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/355,149	<b>Applicant(s)</b> ASSMUS ET AL.
	<b>Examiner</b> M. Lee	<b>Art Unit</b> 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 03 December 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9, 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No.(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-8 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki (5,222,108).

Regarding claim 1, Suzuki discloses a cell transmission phase and rate converting circuit for use in an ATM communication system showing a data-independent clock (RCK), and a memory device 11. The memory device 11 reads out data (RCD) under the control of read-out clock (RCK). The FIFO memory 11 is intended to compensate any disturbance might have caused to the received data during transmission. For instance, any transmission delay caused by network routings and transmission errors can be cushioned by the FIFO.

Regarding claims 2 and 3, note FIFIO 22.

Regarding claim 5, the RCK signal is provided from another ATM circuit.

Regarding claim 6, the RCK signal is not synchronized with the WCK. The main control unit 12 adjusts the rate of the received data.

Regarding claim 7, the selector 22 and control signal RS from main control unit 12 meet the functions of the adjusting means as claimed.

Regarding claim 8, see rejection to claim 5.

Regarding claim 18, the data stream ICD is inherently video and audio data.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (5,222,108).

Regarding claim 4, Suzuki does not specify the data storing periods as claimed. In any event, Suzuki teaches that the FIFO 11 can be designed to have different sizes. The size selection of the FIFO 11 is considered a matter of design choice. Hence, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to select different data storing periods to perform the well known functions as claimed.

Regarding claim 9, Suzuki does not disclose the switchover device as claimed. The examiner takes Official Notice that using a switchover device, such as a data parser, for splitting data streams into video and audio data packets are well known in the art because it enables data streams to be properly separated and processed. Hence, it would have been obvious to one of ordinary skill in the art at the time that the

invention was made to include a data parser into Suzuki so that the received video and audio data could be separated and decoded.

***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran, can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. Lee/  
Primary Examiner  
Art Unit 2622

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